IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

CRL.A.No. 38 of 1999

ST.198/1998 OF JUDL.MAGISTRATE OF FIRST CLASS COURT-II, PERINTHALMANNA.

.....

APPELLANT/COMPLAINANT:

K. JAYAPRAKASH, DEVI VIHAR,
PAYYAPARAMBA, ANTHIKKAD.P.O.,
MALAPPURAM DISTRICT.

BY ADV. SRI.V.R.KESAVA KAIMAL,
SRI.N.M.MADHU.

RESPONDENTS/ACCUSED:
----

1. **T. SUDHAKARAN, S/O. AYYAPPAN,**
   THOTTINGAL HOUSE, PANDIKKAD,
   VALLUVANGAD SOUTH P.O.,
   MALAPPURAM DISTRICT.

2. **STATE OF KERALA, REP. BY ITS**
   PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. AMJAD ALI.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 22/06/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R. UDAYABHANU, J.

Crl. A. No.38 of 1999

Dated 22nd June, 2007

JUDGMENT

The appellant is the complainant in S.T.198/1998, the proceedings initiated under section 138 N.I Act which happened to be dismissed as he could not appear before the court below and the accused acquitted under section 256 (1) Cr.P.C. It is submitted that the non appearance was on account of the wrong noting of the posting date.

2. In the circumstances, the order of the court below is set aside. The court below is directed to permit the petitioner to further proceed with the matter. The revision petitioner shall appear before the JFCM-II, Perinthalmanna on 30-7-2007. The court below shall issue fresh summons to the accused.

The Crl.A is allowed.

K.R.UDAYABHANU,
JUDGE.

Kvm/-

K.R.UDAYABHANU, J.

CRL.A. 38/1999

JUDGMENT

22-6-2007.